

IN THE INCOME TAX APPELLATE TRIBUNAL,

“SMC” BENCH, MUMBAI

BEFORE BEENA PILLAI, JM &

AND

SMT RENU JAUHRI, AM

ITA No.4835/M/2023

(Assessment Year: 2016-17)

Nilesh Bandu Mhatre A-202, Radha Raman CHS. Ltd., Maharashtra- 400068. PAN: AHSPM4250D	Vs.	National Faceless Appeal Centre Delhi
(Appellant)		(Respondent)

Present for:

Appellant/Assessee by : None

Revenue/ Respondent by : Ms. Usha Gaikwad, SR. A.R.

Date of Hearing : 16.10.2024

Date of Pronouncement : 30.10.2024

ORDER

Per Beena Pillai, JM:

Present appeal has been filed by assessee against order dated 10/03/2023 passed by the Ld.NFAC Delhi, for assessment year, 2016-17 on following grounds of appeal:

1. On the facts and circumstances of the case and in law, the Ld. CIT(A) had erred in disallowing expenses of Rs.20,67,006/- and as such may be allowed. On the facts and circumstances of the case and in law, the Ld. CIT(A) had erred in adding Rs.35,50,000/-as undisclosed income and as such may be deleted. On the facts and circumstances of the case and in law, the Ld. CIT(A) has not provided an opportunity of being heard to the appellant. I reserved my right to add, amend or altered above ground of appeal.



2. Mr. Nilesh Mhatre is a freelancing Contractor. Who renders techno Legal Consultancy services and resolves matters in disputes. He has filed his return of Income for the assessment Year 2016-2017 on 28-01-2017 showing Income of Rs.5,23,210/.
3. During this A.Y 2016-17, the appellant had gross revenue of Rs.6,97,620/- from various clients, deposited in the Bank of Baroda (his savings account). This case had been selected under Computer Aided Scrutiny Selection (CASS) & Addition of Rs.35,50,000/- was done while the order was passed.
4. Points that has not been Verified a) There were Express to the tune of Rs.20,67,006/-, Which was not allowed. The expenses which are legit like electricity, Conveyance, salary etc has not been considered. b) All the expenses incurred by the appellant have been incurred by his credit cards or non-cash mode (digitally). 2) The opening cash Balance has also not been Considered.
5. Relief Sought: The appellant humbly seeks that this case be remanded back to learning Assessing officer. Where he can get an opportunity of being heard & can represent the facts for verification."

Brief facts of the case are as under:

2. The assessee is a freelancing Contractor who renders techno Legal Consultancy services and resolves matters in disputes. He filed his return of Income for the assessment Year 2016-2017 on 28-01-2017 declaring Income of Rs.5,23,210/-.

During this A.Y 2016-17, the assessee had gross revenue of Rs.6,97,620/- from various clients, deposited in the Bank of Baroda (his savings account). This case was selected for complete Scrutiny. The Ld.AO made Addition of Rs.35,50,000/- in the assessment order.

Aggrieved by the order of the Ld.AO, the assessee preferred appeal before Ld. CIT(A).

The Ld. CIT(A) confirmed the addition.



Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before this tribunal.

3. At the outset the Ld.AR submitted that no opportunity of being heard was granted to the assessee. It is submitted that the impugned order is passed without an effective hearing to the assessee and therefore the view taken by the Ld. CIT(A) is against the principles of natural justice. He submitted that there is no reference to any notice having been issued to the assessee and the Ld. CIT(A) merely confirmed the addition.

3.1. The Ld.DR could not controvert the submissions of the Ld.AR on this aspect.

We have perused the submissions advanced by both sides based on the records placed before us.

4. Admittedly, the Ld.CIT(A) has not granted an opportunity of being heard to the assessee. It is noted that the Ld.CIT(A) has not issued any notice of hearing and has decided the issue based on the materials available on record. In the interest of justice we find it appropriate to remand this appeal back to the Ld.CIT(A) with the direction to pass a detailed order on merits in accordance with law. The assessee is directed to furnish all relevant materials/evidences before the Ld.CIT(A) in order to substantiate its claim. Needless to say that, proper opportunity of being heard must be granted to the assessee.

Accordingly, grounds raised by the assessee stand for pay out for statistical purposes.



In the result appeal filed by the assessee stands partly allowed for statistical purposes.

Order pronounced in the open court on 30-10-2024.

**Sd/-
(RENU JAUHRI)
Accountant Member**

**Sd/-
(BEENA PILLAI)
Judicial Member**

30.10.2024

*SK, Sr. PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)

ITAT, Mumbai